

MINUTES

WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
August 22, 2016 at 6:00 P.M.

PLEDGE OF ALLEGIANCE – A moment of silence was held followed by the Pledge of Allegiance

MEMBERS PRESENT: Jeff Valiant, Chairman; Tina Baxter, Terry Dayvolt, Doris Horn, Mike Moesner, Jeff Willis and Mike Winge.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Sheila Lacer, Staff.

MEMBERS ABSENT: None

Roll call was taken and a quorum declared present.

MINUTES: Upon a motion by Terry Dayvolt and seconded by Mike Winge, the Minutes of the last regular meeting held July 25, 2016, were approved as circulated.

The Chairman explained the Rules of Procedure to the audience.

VARIANCE:

BZA-V-16-11

APPLICANT: Cleo Holder

OWNER: Hugh & Ruth Collins; Cleo & Carol Holder

PREMISES AFFECTED: Property located on the N side of SR 662 approximately 250' E of the intersection formed by SR 662 & Stacer Rd. (W 1075), Ohio Twp.

NATURE OF CASE: Applicant requests a Variance from Article XXI Sec 2 Table B of the Comprehensive Zoning Ordinance in effect for Warrick County, Indiana to allow a parcelization with the 2 proposed lots not meeting the 50 foot minimum frontage on a dedicated and maintained roadway in an "A" Agriculture and "C-4" General Commercial zoning district. (Complete legal on file.) *10690 SR 662 Advertised in the Standard August 11, 2016.*

Jim Morley, Jr. and Cleo Holder were present.

The Chairman called for a staff report.

Mrs. Rector said they have all the return receipts from certified mail except for Casey & Laura Nowinski. She said the Post Office website said the letter was not picked up and the letter has been returned to sender. She explained the property has an existing residence and the surrounding property to the North is "R-1A" – Landmark Subdivision; East is Agriculture (house) and "C-4" (business) ; South is

“C-4” and across SR 662 is “C-3” & “C-4”; West is “C-4” & “C-3”. She said there is no flood plain on the property and each parcel will access SR 662. She said this is approximately 8 acres with one residence on it. She said the “C-4” zoning was the original zoning from 1964 but the houses are in the Agriculture zoning. She said over time the property was parceled out, leaving only a ten foot strip for the existing house but there is also a 20’ ingress/egress easement for the existing house on the Schalco property. She said the new parcel will have access with 20’ frontage and in the past this Board has required the applicants/owners to enter into a Hold Harmless Agreement due to not having adequate frontage for emergency vehicles. She said staff has prepared a Hold Harmless and Attorney Doll has reviewed it. She said if this Variance is approved they will file a parcelization dividing the property and we can record the Hold Harmless with the parcelization. She explained that Mr. Holder is dividing the property in order for his daughter to be able to build a home on this property. She said they will have to get a permit from the State for the entrance.

Mr. Holder said there is already an entrance there.

Mrs. Rector said the Board can see how they plan to divide the property and this isn’t something they just created, it has been this way for a long time.

Jim Morley, Jr. said this property has two “legs” that come out to SR 662 and currently the existing house is utilizing the eastern “leg” and the new house will utilize the western “leg”. He said it is an existing condition and they are trying to split off a piece for a family member and they are asking for this Variance.

The Chairman called for questions from the Board.

Mike Moesner asked about the two driveways.

Mr. Holder said the 20’ leg isn’t being used right now and it is just being mowed but it will be the new access driveway for the new parcel.

Terry Dayvolt asked about the State driveway permit.

Mr. Holder said there is already a State cut there from when they widened the road.

Ascertaining there were no other questions from the Board, the Chairman called for remonstrators.

Andy Scheessele said he is with SCHALCO who owns the adjacent property and he has spoken with Wade and Sylvia Waters and they have no problem with this as long as the proposed driveway will become concreted instead of asphalt so it will stay the same height as the adjoining property and Cleo Holder has agreed to that.

Attorney Doll stated they don’t have any control over the substance they may use on their driveway and any agreement they have will be private and this Board can’t make any specification regarding the driveway. He said it is nice to hear they have an agreement but it is beyond this Board’s ability.

Attorney Doll explained the Hold Harmless to the applicants again and told them they would need to execute it and return it to the office.

Ascertaining there were no other questions from the Board and being no other remonstrators present, the Chairman called for a motion.

Mike Winge made a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the property is landlocked and only accessible by a 20' parcel.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to Parcelization being filed and approved.
 - b) Subject to a Hold Harmless being recorded and cross referenced to the parcelization.
 - c) Subject to an Improvement Location Permit being obtained.
 - d) Subject to a Building Permit being obtained.

- e) Subject to any State driveway permit required.
- f) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- g) Subject to all utility easement and facilities in place.

The motion was seconded by Doris Horn and unanimously carried.

The applicants were informed they could pick up their approval on Wednesday.

ATTORNEY BUSINESS: None.

EXECUTIVE DIRECTOR BUSINESS: None.

Jeff Valiant stated he will not be at the next meeting.

Being no other business the meeting adjourned at 6:15 p.m.

Jeff Valiant, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held August 22, 2016.

Sherri Rector, Executive Director